

Richard P. Narcia
GOVERNOR



Mary V. Thomas
LIEUTENANT GOVERNOR

Gila River Indian Community

EXECUTIVE OFFICE OF THE GOVERNOR & LIEUTENANT GOVERNOR

July 3, 2003

Wayne Nastri
Regional Administrator
U.S. Environmental Protection Agency - Region 9
75 Hawthorne Street
San Francisco, CA 94105-3901

DATE	7/14/03	ACTION (✓)	COPIED (✓)	RA	DRA	AIR	OCGR	ORC	OSPEI	PMD	# FUND	WASTE	WATER	X-MEDIA
		RA												
		DRA												
		AIR												
		OCGR												
		ORC												
		OSPEI												
		PMD												
		# FUND												
		WASTE												
		WATER												
		X-MEDIA												

RE: Supplement to the Gila River Indian Community's Recommended Area Designation for the 8-Hour Ozone NAAQS

Dear Mr. Nastri,

Thank you for the opportunity to submit this supplement to our previous designation recommendations for the Gila River Indian Community. The Gila River Indian Community (the "Community" or "GRIC") previously submitted letters to EPA Region IX on this subject on September 2, 1999 and October 31, 2000 (attached). In those letters we recommended that the area within the exterior boundaries of the reservation be designated as **unclassifiable** for the 8-hour ozone standard. On July 18, 2000, EPA issued a Tribal Guidance Document signed by John Seitz, Director of the Office of Air Quality Planning and Standards, describing the process Tribes must follow when making a designation recommendation. The Guidance states that metropolitan statistical areas (MSA's) with monitors that show violations are presumed to be nonattainment for the 8-hour standard. However, the Guidance also lists 11 mitigating factors that will be considered by EPA in determining whether tribal areas located within a nonattainment MSA should be excluded from the nonattainment designation. The GRIC October 31, 2000 designation recommendation addressed each of these 11 mitigating factors.

Due to the uncertainty of the outcome of litigation challenging the 8-hour standard and its implementation, EPA did not act on our previous recommendations. Since the legal challenges have been resolved, EPA has again asked tribes and states to submit designation recommendations for lands under their jurisdiction. Please accept this letter and attached documentation as a supplement to the previous GRIC designation recommendations. This letter contains supplemental information including GRIC's initial ozone monitoring data (attached). This data further strengthens GRIC's justification for designating the Community as unclassifiable for the 8-hour ozone NAAQS. The GRIC recommendation letters dated September 2, 1999 and October 31, 2000 as well as the following supplemental information need to be reviewed as a whole to have a full understanding of the Community's position and its justification.

GRIC Monitoring Data

GRIC began collecting ambient data for the one-hour and 8-hour ozone NAAQS in July 2002 in accordance with an EPA-approved GRIC Quality Assurance Project Plan (QAPP). The GRIC DEQ installed two ozone monitors on Community lands, one in Sacaton and one in St. Johns, in accordance with EPA siting protocols. Monitoring personnel from Arizona Department of Environmental Quality, Maricopa County Environmental Health Services Department and the Pinal County Air Quality Control Agency were consulted prior to siting the GRIC monitoring stations to coordinate with the surrounding monitoring networks. The GRIC ozone samplers are UV Absorption Ozone Analyzers (API Model 400A). The GRIC Air Program also maintains two ozone transfer standards (QA and QC) and a primary bench standard for the purpose of conducting precision checks, instrument checks and calibrations on the 400A units. These monitors have been collecting quality assured, AIRS/AQS compliant data since July 2002. The data collected between July 1, 2002 and September 30, 2002 indicates that no exceedances of the one-hour nor the 8-hour standard occurred even though the weather conditions were very conducive to ozone formation. Like much of the western United States, the Community experienced extremely unusual weather patterns in the Summer of 2002. The atmospheric conditions during the 2002 ozone season were arguably the worst in recent history. Wind patterns were unusually stagnant because there were much fewer storm fronts during the so-called "monsoon season" than has historically been the case, temperatures were also higher and humidity was low. According to the Phoenix office of the National Weather Service, the summer had the second highest average temperature and tied for the least rainfall on record. On July 10, 2002, the St. Johns site measured 0.1224 parts per million ("ppm"), which rounds to the national one-hour standard of 0.12 ppm for ozone (ozone data for July – September 2002, attached). The four highest readings under the 8-hour standard at the St. Johns station were .1041, .0832, .0818 and .0804. The 8-hour readings at the Sacaton station were lower with the four highest readings registering .0822, .0803, .0791 and .0774. The fourth highest reading from both the St. Johns station and the Sacaton station did not exceed the 8-hour ozone NAAQS. In both cases, the highest readings occurred on July 10, 2002. The Community does not feel that the July 10 readings nor the conditions experienced in the Summer of 2002 are representative of normal conditions. Indeed, the July 10 readings occurred on a day in which there were elevated readings throughout Maricopa County, yet there was still not an exceedance, much less a violation, of the standard at GRIC.

Highest Measured Ozone Concentrations from GRIC Monitoring Stations (July 2002 - September 2002)		
Site Location	1-hour ozone standard	8-hour ozone standard
St. Johns station	0.1224 ppm	0.0804 ppm (4 th highest)
Sacaton station	0.097 ppm	0.0774 ppm (4 th highest)

The GRIC Air Program also collects daily meteorological data which are gathered and archived at the ozone monitoring stations. The automated hourly ozone samples are only collected during the ozone monitoring season (April thru October). The hourly ozone data are electronically collected from the monitoring-site data loggers and then transferred into the GRIC DEQ AQDMS for verification and validation. Once the data passes the verification and validation protocols, they are electronically submitted into the EPA Aerometric Information Retrieval System/ Air Quality Subsystem (AIRS/AQS) for final reporting. An annual narrative summary report is also submitted to USEPA Region IX office for review 120 days after the end of the calendar year in which data was collected.

This recent monitoring data further supports GRIC's position that the Community should be designated unclassifiable until such time that three years of QA/QC approved ozone data can be collected to properly base a designation. As we noted in previous submissions, GRIC is neither the source of precursors that cause ozone violations nor a receptor for ozone generated elsewhere. To date, no modeling has been conducted that is consistent with the extensive historical monitoring data and wind patterns that have been collected throughout the Maricopa County nonattainment area. In addition, no modeling has been conducted that is representative of actual ozone concentrations when compared to the 8-hour ozone NAAQS averaged over a three year period. Thus, only actual, measured data should be used as the basis for designation.

Meteorology (weather/ transport patterns)

Monitored exceedances of the one-hour and the 8-hour NAAQS for ozone have occurred in north and northeastern Maricopa County in past years. This pattern can be attributed to prevailing winds transporting NOx and VOCs from vehicle emissions and industrial facilities in the Phoenix area to the northeast (away from GRIC) resulting in the formation of high ozone concentrations at the monitoring sites located at Fountain Hills, Mount Ord and the Superstition Mountain Class One area (see attached wind pattern maps), among others.

None of the monitoring stations surrounding GRIC have documented an exceedance of the one-hour nor the 8-hour NAAQS for ozone. Please refer to the attached copies of the Maricopa County monitoring data reports from AIRS/AQS for 2000, 2001 and 2002.

Use of the MSA as the Default for Establishing Designation Boundaries


The default boundaries for nonattainment areas are usually based on MSAs which, in the case of Gila River Indian Community, would include all of Maricopa and Pinal counties totaling approximately 14,592 square miles. This default area designation would cover territory that is subject to state and tribal jurisdiction with at least six separate and different sovereign entities (five Tribes and the State of Arizona) and with the potential for five implementation plans. Including different jurisdictions in a single nonattainment area has presented and continues to present fundamental legal and implementation barriers. These barriers have been explained in detail in our earlier designation recommendations. These documents present compelling reasons for considering the distinct jurisdictional boundaries of the state and Community and for not basing the designation on the arbitrary coverage of the MSA.

Complications Imposed on the GRIC TIP Development Process by Splitting the Community into Two Air Quality Management Areas, One Having a Nonattainment Designation

Were EPA to include Community lands within the boundaries of a nonattainment area based solely on their location within a MSA, GRIC would find itself in a difficult predicament. GRIC can demonstrate that its air quality has no measured exceedances of the 8-hour ozone NAAQS, even during the most serious ozone generating conditions, and it is not in an ozone transport area. However, despite the lack of an empirical basis for the nonattainment designation, the Community would find itself in the position of having to develop its TIP based upon that designation. This situation would have a significant impact on the Community regarding TIP content as well as economic development. GRIC continues to gather valid air quality data on which to base a final designation of its lands and is developing a multi-program Tribal Implementation Plan under the Clean Air Act to regulate ozone sources. GRIC is unaware of any other jurisdiction that is in these same circumstances.

We are highly committed to working with EPA to find the optimum strategies for protecting human health and the environment at GRIC. We hope that you find the recommendation in our September 2, 1999, October 31, 2000 letters and this supplemental letter to be based upon strong technical, legal, practical and public policy arguments and that you will designate all GRIC lands as unclassifiable for the 8-hour ozone standard. We feel this recommendation is fully consistent with § 107(d)(1) of the CAA. If you have questions about any aspect of this letter or need more information, please contact Pat Mariella, Ph.D., director of the GRIC Department of Environmental Quality, at (520)562-2234 extension 225.

Sincerely,



Richard P. Nacia
Governor

cc: GRIC Council members
Janet Napolitano, Governor, State of Arizona
Steve Page, OAQPS
Jack Broadbent, EPA Region 9
Doug McDaniel, EPA Region 9
Steve Owens, ADEQ
Nancy Wrona, ADEQ
Dennis Smith, MAG
Don Gabrielson, Pinal County AQCD
Al Brown MCESD
Pat Mariella, GRIC DEQ

**Community Council Secretary's Office
Standing Committee Review & Routing Form**

(To be completed by originating department/program/entity)

DOCUMENT TITLE: A Resolution REQUESTING THAT THE US EPA Designate
the GRIC as UNCLASSIFIABLE for the 8-Hour
OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS

PROGRAM ENTITY: Pct MARIELLA DEQ

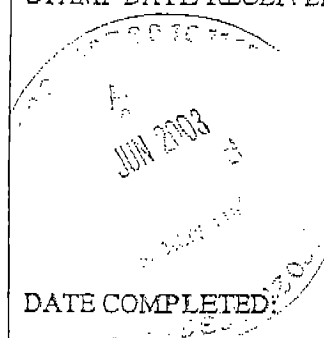
CONTACT PERSON/PHONE NUMBER: 562-~~2234~~ 2234 DATE: June 5/03

TYPE OF DOCUMENT: ☒ Resolution ☐ Ordinance
 ☐ 638 Contract/Grant ☐ Lease (No. _____)
 ☐ Archeological License ☐ Contract
 ☐ Memorandum of Agreement/Understanding
 ☐ Homesite Agreement/Assignment
 ☐ Other

SUPPORT DOCUMENTATION: Letter to U.S. EPA.

TO BE SUBMITTED TO: NATURAL RESOURCE COMMITTEE
(Name of Standing Committee)

FOR STANDING COMMITTEE
CONSIDERATION ON: _____
(Name of Standing Committee)

<p>COMMUNITY COUNCIL SECRETARY'S OFFICE REVIEW</p> <p>NAME/TITLE: <u>Nellie Turgut, Legislative Assistant</u></p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>ROUTE TO: <u>Law Office</u></p>	<p>STAMP DATE RECEIVED:</p> <div style="text-align: center;"></div> <p>DATE COMPLETED: <u>6/6/03</u></p>
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DOCUMENT TITLE: _____

REVIEWING DEPARTMENT: LAW OFFICE	STAMP DATE RECEIVED:
NAME/TITLE: <u>ALISA A. MANDEL</u>	RECEIVED
COMMENTS: _____	

ROUTE TO: _____	JUN 09 2003
<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Not Approved	LAW OFFICE
	DATE COMPLETED: <u>6/10/03</u>

REVIEWING DEPARTMENT: CONTRACTS & GRANTS	STAMP DATE RECEIVED:
NAME/TITLE: _____	
COMMENTS: _____	

ROUTE TO: _____	DATE COMPLETED: _____
<input type="checkbox"/> Approved <input type="checkbox"/> Not Approved	

REVIEWING DEPARTMENT: _____	STAMP DATE RECEIVED:
NAME/TITLE: _____	
COMMENTS: _____	

ROUTE TO: _____	DATE COMPLETED: _____
<input type="checkbox"/> Approved <input type="checkbox"/> Not Approved	

REVIEWING DEPARTMENT: _____	STAMP DATE RECEIVED:
NAME/TITLE: _____	
COMMENTS: _____	

ROUTE TO: _____	DATE COMPLETED: _____
<input type="checkbox"/> Approved <input type="checkbox"/> Not Approved	

STANDING COMMITTEE: _____ CHAIRPERSON: _____ COMMENTS: _____ _____ _____ REFER TO: _____ RECOMMENDED FOR: _____ (Approval/Disapproval/Discussion/etc.) <input type="checkbox"/> APPROVED <input type="checkbox"/> NOT APPROVED/DISPENSED <input type="checkbox"/> TABLED	STAMP DATE RECEIVED: _____ DATE COMPLETED: _____ _____
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STANDING COMMITTEE: _____ CHAIRPERSON: _____ COMMENTS: _____ _____ _____ REFER TO: _____ RECOMMENDED FOR: _____ (Approval/Disapproval/Discussion/etc.) <input type="checkbox"/> APPROVED <input type="checkbox"/> NOT APPROVED/DISPENSED <input type="checkbox"/> TABLED	STAMP DATE RECEIVED: _____ DATE COMPLETED: _____ _____
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COMMUNITY COUNCIL: _____ COMMENTS: _____ _____ _____ REFER TO: _____ RECOMMENDED FOR: _____ (Approval/Disapproval/Discussion/etc.) <input type="checkbox"/> APPROVED Q=____ FOR: ____ OPPOSE: ____ ABSTAIN: ____ ABSENT: ____ VACANCY <input type="checkbox"/> NOT APPROVED/DISPENSED <input type="checkbox"/> TABLED <input type="checkbox"/> RESOLUTION GR-____ <input type="checkbox"/> ORDINANCE NO. GR-____	STAMP DATE RECEIVED: _____ DATE COMPLETED: _____ _____
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Resolution No. GR-_____-02

Title: _____

Ordinance No. GR-_____-02

Title: _____

TO BE COMPLETED BY THE COMMUNITY COUNCIL SECRETARY'S OFFICE:

Date Sent to Bureau/By: _____

Received by: _____ Title: _____

Documents Submitted to Bureau: _____

Documents Returned to the C.C.S.O. (Stamp Date Received): _____

Date Received in C.C.S.O.: _____

Delivered by: _____ Dept./Agency _____

All documents returned? Yes _____ No _____

If no, documents not returned: _____

Documents Approved/Acknowledged by the Bureau (Date of Transmittal): _____

Comments: _____

Date of Document Filed/By: _____

Source Copy picked up by: _____ Date: _____

Additional requests for document:

By _____ Date: _____

By _____ Date: _____

RESOLUTION GR- -02

63 JUN 5 1:4

**A RESOLUTION REQUESTING THAT THE UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY DESIGNATE THE GILA RIVER
INDIAN COMMUNITY AS UNCLASSIFIABLE FOR THE EIGHT HOUR
OZONE NATIONAL AMBIENT AIR QUALITY STANDARDS**

- WHEREAS,** the Gila River Indian Community (the "Community") is highly committed to the protection of human health and the environment and to sustainable development; and
- WHEREAS,** the Community has jurisdiction over more than 375,000 acres in central Arizona; and
- WHEREAS,** the Community has developed a Department of Environmental Quality to manage and protect human health and the environment and has received an eligibility determination from the U.S. Environmental Protection Agency to implement Clean Air Act programs within the exterior boundaries of the Community; and
- WHEREAS,** in 1978, the U.S. EPA included the northern third of the Community, which lies within the Maricopa County Urban Planning Area, into the Phoenix non-attainment area under the original 1-hour ozone national ambient air quality standard (NAAQS); and
- WHEREAS,** sources of ozone precursors from within the Community do not cause nor contribute to a violation of the 8-hour ozone NAAQS nor is the Community a receptor for ozone generated elsewhere; and
- WHEREAS,** there is no measured or modeled data indicating any violations of the 8-hour ozone NAAQS from within the Community; and
- WHEREAS,** the Community has established three air monitoring stations to collect valid air quality data and will have collected three years of data by July, 2005 as required by the Clean Air Act; and
- WHEREAS,** the Community can demonstrate from ambient air quality monitoring data collected within the Community that even during the serious ozone generating conditions of the summer 2002, Gila River Indian Community did not violate the 8-hour ozone standard; and
- WHEREAS,** the Community, under a non-attainment designation, appears to be required by the Clean Air Act to develop its Tribal Implementation Plan in a manner that addresses a separate jurisdiction's ozone problem and prepare a Non-attainment Area Plan, for part of the Community, to

manage ozone that is neither generated by Community sources nor transported into the Community; and

WHEREAS, the Community is committed to fairness and equity to all residents and businesses within the Community in their goals of self determination for the Gila River Indian Community, and

WHEREAS, the Community, while striving toward sustainable development and economic self sufficiency, shall continue to hold as its highest priority the protection of human health and the environment.

NOW, THEREFORE, BE IT RESOLVED,

that the Gila River Indian Community Council hereby strongly recommends that the United States Environmental Protection Agency designate all Gila River Indian Community lands as an air management area with one designation for the whole community, and

BE IT FURTHER RESOLVED,

That the Gila River Indian Community Council hereby strongly recommends that the United States Environmental Protection Agency designate all of the Gila River Indian Community lands and the Gila River Indian Community air management area unclassifiable for the 8-Hour Ozone National Air Quality Standard.

CERTIFICATION

Pursuant to authority contained in Article XV, Section 1, (a), (1), (7), (9), (18), and Section 4 of the amended Constitution and Bylaws of the Gila River Indian Community, ratified by the Tribe January 22, 1960 and approved by the Secretary of the Interior on March 17, 1960, the foregoing Resolution was adopted the ____ day of _____, 2003 at a Regular Community Council Meeting held at the Council Ke, Sacaton Arizona, at which a quorum of ____ Members were present by a vote of: ____ FOR; ____ OPPOSE; ____ ABSTAIN: ____ ABSENT; ____ VACANCY.

GILA RIVER INDIAN COMMUNITY

GOVERNOR

ATTEST:

COMMUNITY COUNCIL SECRETARY

2002 – 1 hour Daily Max

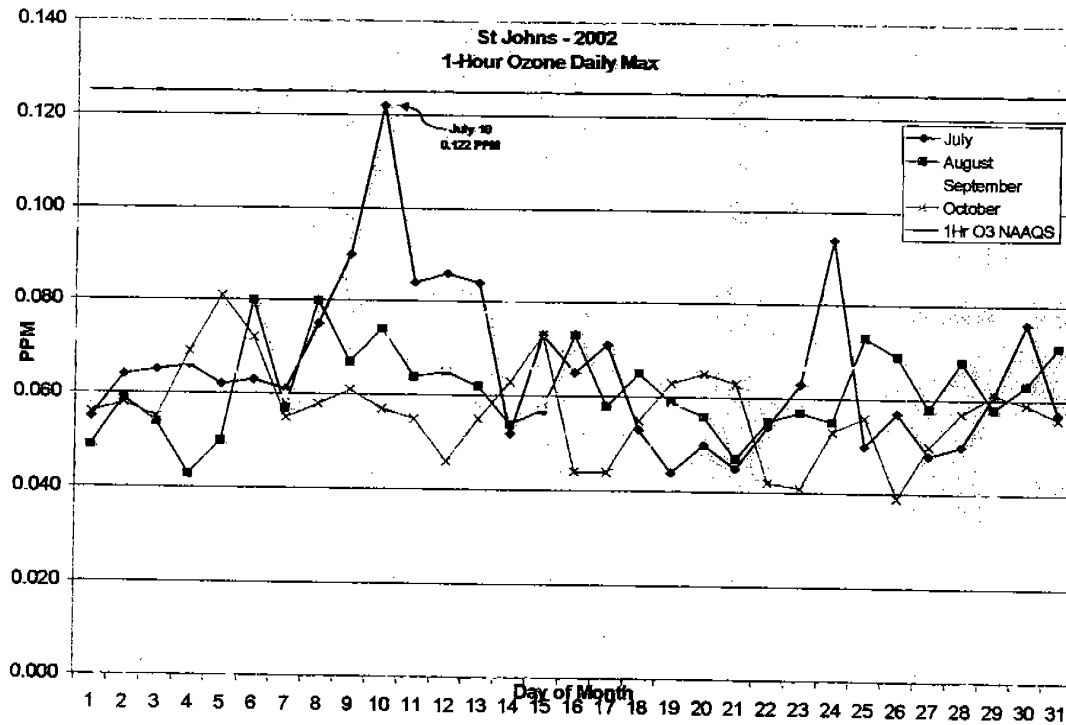
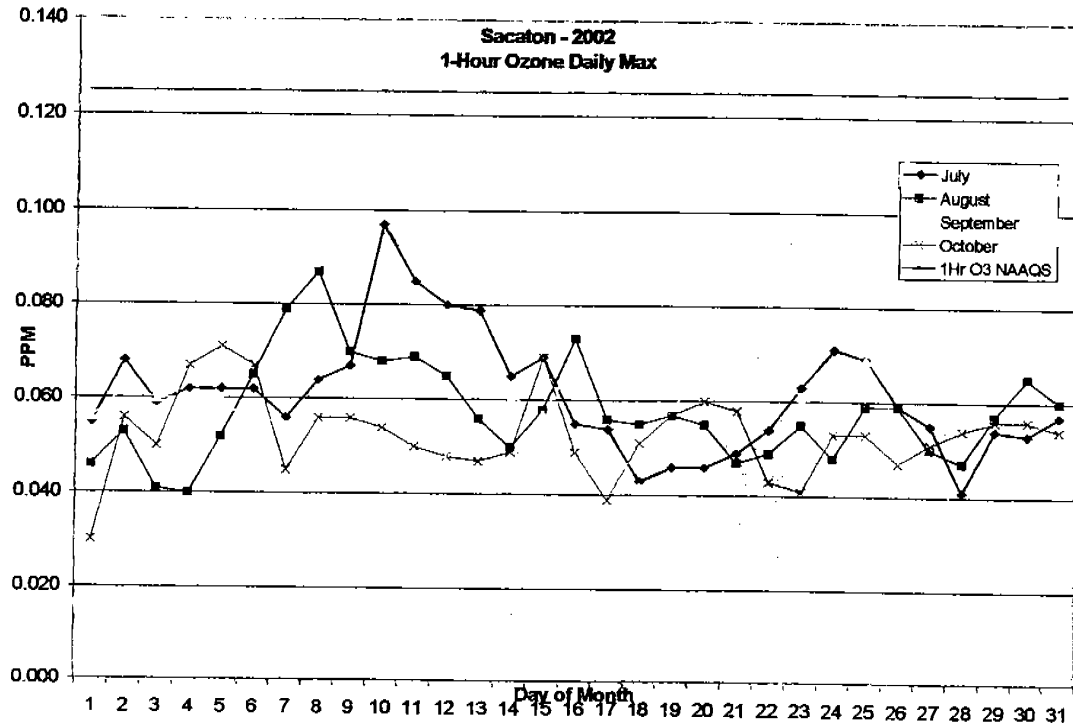
SACATON

	July	August	September	October
Day				
1	0.055	0.046	0.056	0.03
2	0.068	0.053	0.062	0.056
3	0.059	0.041	0.06	0.05
4	0.062	0.04	0.06	0.067
5	0.062	0.052	0.06	0.071
6	0.062	0.065	0.054	0.067
7	0.056	0.079		0.045
8	0.064	0.087		0.056
9	0.067	0.07		0.056
10	0.097	0.068		0.054
11	0.085	0.069		0.05
12	0.08	0.065	0.094	0.048
13	0.079	0.056	0.077	0.047
14	0.065	0.05	0.061	0.049
15	0.069	0.058	0.057	0.069
16	0.055	0.073	0.069	0.049
17	0.054	0.056	0.047	0.039
18	0.043	0.055	0.042	0.051
19	0.046	0.057	0.059	0.057
20	0.046	0.055	0.064	0.06
21	0.049	0.047	0.069	0.058
22	0.054	0.049	0.069	0.043
23	0.063	0.055	0.061	0.041
24	0.071	0.048	0.065	0.053
25	0.069	0.059	0.069	0.053
26	0.059	0.059	0.055	0.047
27	0.055	0.05	0.043	0.051
28	0.041	0.047	0.038	0.054
29	0.054	0.057	0.037	0.056
30	0.053	0.065	0.037	0.056
31	0.057	0.06		0.054

ST JOHNS

	July	August	September	October
Day				
1	0.055	0.049	0.06	0.056
2	0.064	0.059	0.07	0.058
3	0.065	0.054	0.059	0.055
4	0.066	0.043	0.067	0.069
5	0.062	0.05	0.074	0.081
6	0.063	0.08	0.054	0.072
7	0.061	0.057	0.06	0.055
8	0.075	0.08	0.037	0.058
9	0.09	0.067	0.037	0.061
10	0.122	0.074	0.076	0.057
11	0.084	0.064	0.055	0.055
12	0.086	0.065	0.066	0.046
13	0.084	0.062	0.077	0.055
14	0.052	0.054	0.081	0.063
15	0.073	0.057	0.058	0.073
16	0.065	0.073	0.067	0.044
17	0.071	0.058	0.051	0.044
18	0.053	0.065	0.045	0.055
19	0.044	0.059	0.058	0.063
20	0.05	0.056	0.059	0.065
21	0.045	0.047	0.065	0.063
22	0.054	0.055	0.066	0.042
23	0.063	0.057	0.067	0.041
24	0.094	0.055	0.065	0.053
25	0.05	0.073	0.068	0.056
26	0.057	0.069	0.064	0.039
27	0.048	0.058	0.05	0.05
28	0.05	0.068	0.039	0.057
29	0.061	0.058	0.041	0.061
30	0.076	0.063	0.045	0.059
31	0.057	0.071		0.056

2002 GRIC 1-HOUR OZONE, DAILY MAX

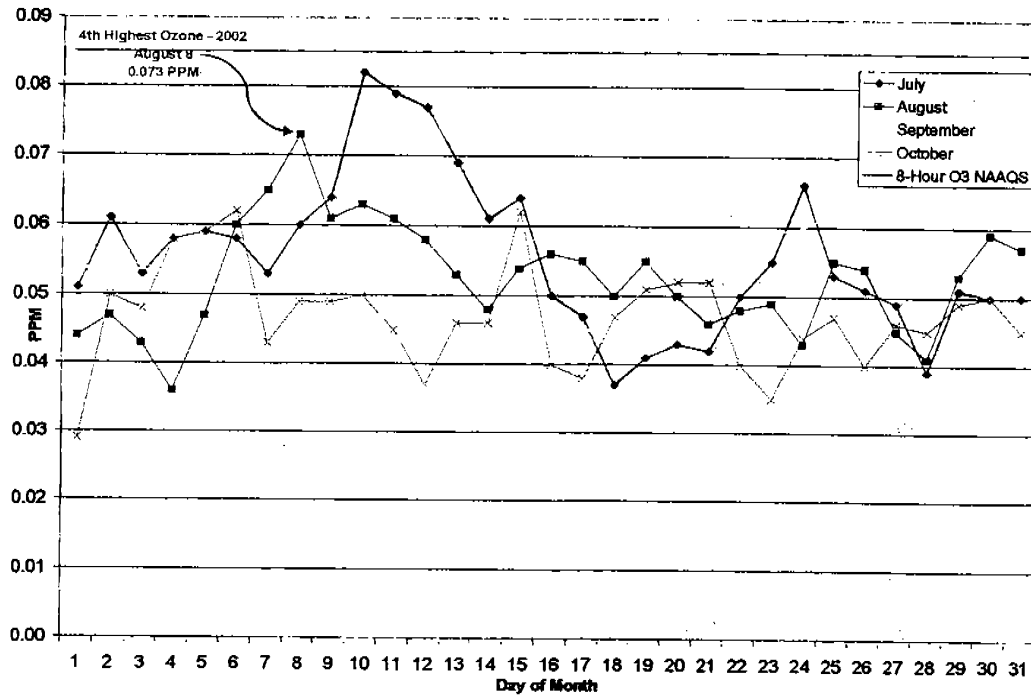


2002 – 8 hour Daily Max				
SACATON				
	July	August	September	October
	Max	Max	Max	Max
Day				
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2	0.061	0.047	0.056	0.05
3	0.053	0.043	0.054	0.048
4	0.058	0.036	0.054	0.058
5	0.059	0.047	0.054	0.059
6	0.058	0.06	0.046	0.062
7	0.053	0.065		0.043
8	0.06	0.073		0.049
9	0.064	0.061		0.049
10	0.082	0.063		0.05
11	0.079	0.061		0.045
12	0.077	0.058	0.053	0.037
13	0.069	0.053	0.068	0.046
14	0.061	0.048	0.058	0.046
15	0.064	0.054	0.055	0.062
16	0.05	0.056	0.062	0.04
17	0.047	0.055	0.046	0.038
18	0.037	0.05	0.041	0.047
19	0.041	0.055	0.054	0.051
20	0.043	0.05	0.057	0.052
21	0.042	0.046	0.062	0.052
22	0.05	0.048	0.062	0.04
23	0.055	0.049	0.059	0.035
24	0.066	0.043	0.06	0.044
25	0.053	0.055	0.062	0.047
26	0.051	0.054	0.048	0.04
27	0.049	0.045	0.038	0.046
28	0.039	0.041	0.035	0.045
29	0.051	0.053	0.035	0.049
30	0.05	0.059	0.035	0.05
31	0.05	0.057		0.045

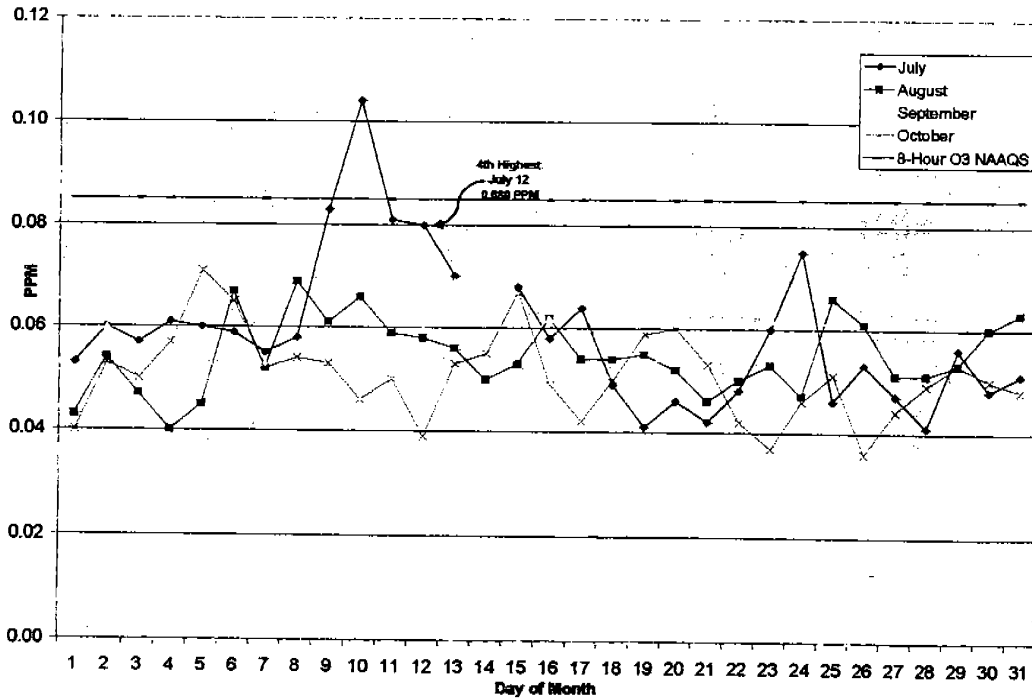
ST JOHNS				
	July	August	September	October
	Max	Max	Max	Max
Day				
1	0.053	0.043	0.057	0.04
2	0.06	0.054	0.06	0.053
3	0.057	0.047	0.054	0.05
4	0.061	0.04	0.059	0.057
5	0.06	0.045	0.056	0.071
6	0.059	0.067	0.046	0.065
7	0.055	0.052	0.053	0.052
8	0.058	0.069	0.034	0.054
9	0.083	0.061	0.029	0.053
10	0.104	0.066	0.056	0.046
11	0.081	0.059	0.05	0.05
12	0.08	0.058	0.06	0.039
13	0.07	0.056	0.069	0.053
14		0.05	0.071	0.055
15	0.068	0.053	0.056	0.067
16	0.058	0.062	0.062	0.049
17	0.064	0.054	0.05	0.042
18	0.049	0.054	0.041	0.05
19	0.041	0.055	0.053	0.059
20	0.046	0.052	0.055	0.06
21	0.042	0.046	0.057	0.053
22	0.048	0.05	0.061	0.042
23	0.06	0.053	0.062	0.037
24	0.075	0.047	0.059	0.046
25	0.046	0.066	0.062	0.051
26	0.053	0.061	0.052	0.036
27	0.047	0.051	0.042	0.044
28	0.041	0.051	0.037	0.049
29	0.056	0.053	0.036	0.053
30	0.048	0.06	0.043	0.05
31	0.051	0.063		0.048

2002 GRIC 8-HOUR OZONE, DAILY MAX

Sacaton - 2002
8-Hour Ozone Daily Max



St Johns - 2002
8-Hour Ozone Daily Max



General Afternoon Wind Pattern

